

**In The Central Administrative Tribunal**

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

Coastguard APPLICATION NO. 4/2000

OF 199

Applicant(s) Smt. Anima Kalita

Respondent(s) Sri Jaswagaard and ors.

Advocate for Applicant(s) Mr. B. K. Sharma.

Mr. S. Sarma.

Advocate for Respondent(s) Mr. B. C. Pathak,  
Add. C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>The deavered applicant Advocate has been filed this Coastguard petition regarding non-compliance of the judgment and order dt. 28.8.98 passed by this Hon'ble Tribunal.</p> <p>Laid before Hon'ble Court for further orders.</p> <p><i>Section Officer</i> 22/2/2000</p>	<p>25.2.2000</p> <p>mk 1/3/2000</p> <p>27.3.00</p>	<p>Present : Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman and Hon'ble Mr. G.L. Sanglyine, Administrative Member.</p> <p>Issue notice to the alleged contemners to show cause as to why contempt proceeding should not be drawn up.</p> <p>List on 27.3.00 for orders.</p> <p><i>Member</i> Vice-Chairman</p> <p>Mr. B.C. Pathak submits that he will appear for the alleged contemners and prays for adjournment. Prayer allowed.</p> <p>List on 24.4.2000 for further order.</p>

Notes of the Registry	Date	Order of the Tribunal
<p>2-3-2000</p> <p>Service of notice prepared and sent to D Section for issuing of the same to the respondents through Regd. post with A.D. vide D.No. 663 to 664 Dtd. 3-3-2000.</p>	<p>24.4.00</p> <p>mk</p>	<p>Mr. B.C. Pathak, learned Addl. C.G.S.C. is appearing for alleged contemners No.1 and 2 and prays for time.</p> <p>List on 12.5.00 for orders.</p> <p><i>[Signature]</i> Member</p>
<p>10-5-2000</p> <p>Notice duly served on R.No. 1.</p>	<p>12.5.00</p> <p>pg</p>	<p>Mr S.Sarma, learned counsel for the petitioner is present. &amp; Mr. B.C. Pathak, learned counsel for the alleged contemners seeks time to file reply.</p> <p>List on 6.6.2000 for order.</p> <p><i>[Signature]</i> Member (J)</p>
<p>11-5-00</p> <p>no reply has been filed.</p> <p>6.6.00</p> <p>no reply has been filed.</p>	<p>6.6.00</p> <p>trd</p>	<p>Mr. B.C. Pathak, learned counsel for the alleged contemners and Mr. S. Sarma learned counsel for the contempt petitioner.</p> <p>Mr. B.C. Pathak, learned counsel for the alleged contemners prays for two weeks time to file written reply. Prayer allowed.</p> <p>List on 21.6.2000 for written reply and further orders.</p> <p><i>[Signature]</i> Member (J)</p>
<p>No. Reply has been filed.</p> <p>13.11.2000.</p>	<p>21.6.00</p>	<p>There is no Bench today. Adjourned to - 17.7.00.</p> <p><i>[Signature]</i></p>
	<p>17.7.00</p> <p>7.8.00</p> <p>12.9.00</p>	<p>There is no Bench today. Adjourned to - 7.8.00.</p> <p><i>[Signature]</i></p> <p>There is no Bench today. Adjourned to - 12.9.00.</p> <p><i>[Signature]</i></p> <p>No Bench. To be listed on 14.11.00.</p> <p><i>[Signature]</i></p>

Notes of the Registry	Date	Order of the Tribunal
	14.11.00	<p data-bbox="767 308 1493 375">Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.</p> <p data-bbox="783 428 1592 2218">This petition has been filed under Section 17 of the Administrative Tribunals Act read with Rule 24 of the C.A.T. (Procedure) Rules 1987 for non implementation of the order dated 28.8.98 passed by this Tribunal in O.A.No.40/96. The petitioner earlier approached this Tribunal challenging the order dated 27.11.1995 terminating her service as an Extra Departmental Delivery Agent (EDDA for short). The matter was adjudicated upon and the Tribunal though did not as such find any fault with the order of termination gave a positive direction on the respondents to retain the applicant as a casual employee in any other capacity under the control of the respondent No.4, Senior Superintendent of Post Offices, Guwahati Division without monetary loss and to consider granting her temporary status in due course. While giving the aforementioned direction the Tribunal also indicated that the period of termination is to be computed only as an artificial break and the order of termination shall not in any manner take away the past services rendered by the applicant for the purpose of granting her temporary status. It has been stated that after the aforementioned order the applicant was accommodated as Safaiwala under respondent No.4 but her pay was reduced to further lower grade and the respondents have paying her the pre-revised scale of Safaiwala.</p> <p data-bbox="791 2237 1565 2468">Heard Mr U.K.Nair, learned counsel for the applicant and Mr B.C.Pathak, learned counsel for the alleged contemners. Mr Nair strenuously argued that the respondents ought to have protected</p>


Notes of the Registry

Date

Order of the Tribunal

14.11.00

the interest of the applicant by avoiding the monetary loss. The contemners in their reply on the other hand stated that as such there is no monetary loss as the applicant was earlier an EDDA and working as a part time worker. Under the rules a safaiwala is not entitled for any EDDA allowance but in her case in terms of the order of the Tribunal she was provided EDDA allowance and her pay was protected by providing her the pay of EDDA. From the foregoing discussions it does not appear that there is any wilful violation of the order of the Tribunal. The petitioner is now engaged as a Safaiwala and in due course in terms of the order of this Tribunal the respondents are to take steps for granting her temporary status. In view of the aforementioned reasons I do not find any reason to proceed with this Contempt petition. Contempt petition is accordingly closed.

  
Vice-Chairman

24.11.2000  
Copy of the order  
has been sent to the  
D/Sec. for issuing the  
same to the L/Advocates  
to the parties.  
HS

Received copy  
Animesh Kalita  
1/12/2000

pg  
A684  
15/11

RECORDED

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গুৱাহাটী বেঞ্চ  
Guwahati Bench

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Filed by  
Siddhartha Sarma  
Advocate.  
16.2.2000.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

C.P. No. 4 of 2000

O.A.No. 40 of 1996

IN THE MATTER OF:

An application under section 17 of the Administrative Tribunal Act 1985 read with Rule 24 of the Central Administrative Tribunal (Procedure) Rules 1987 for non compliance of the Hon'ble Tribunal's order dated 28.8.98 passed in O.A. No 40 of 1996 and for execution of the said order.

AND

IN THE MATTER OF:

Smt. Anima Kalita. Safaiwala.  
In the Kamakhya Post Office.  
Guwahati-10.

... Petitioner/Applicant.

- versus -

1. Shri Jasanga,  
Chief Postmaster General, Assam Circle,  
Guwahati-1.

2. Smt.B.Radhika Chakravorty,  
Senior Supdt.of Post Offices.

Contemners/Respondents.

The humble petition on behalf of the Petitioner above named:

MOST RESPECTFULLY SHEWETH:

1. That the petitioner being aggrieved by the order of illegal

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termination of her service had filed the O.A.40 of 1996 before the Hon'ble Tribunal. In the said O.A. the official as well as the private respondents have filed their written statement followed by rejoinder by the petitioner. The aforesaid O.A. came up for hearing on 28.8.98 and the Hon'ble Tribunal was pleased to dispose of the said O.A, directing the respondents to process the case of the petitioner for grant of temporary status and regularisation.

A copy of the order dated 28.8.98 is annexed herewith and marked as Annexure-1.

2. That the Hon'ble Tribunal in the aforesaid order dated 28.8.98 gave direction to the official respondents first to consider her case for grant of temporary status as may be admissible under the relevant rules and schemes and secondly to retain the petitioner as casual employee in another capacity under the control of respondent No.4 without monetary loss and to consider granting her temporary status in due course. However, the respondents have not implemented the judgment mentioned above and violated the same.

3. That the applicant immediately after the said obtaining the copy of the Annexure-1 judgment and order dated 28.8.98 submitted the same by filing a representation dated 7.9.98 to the respondents No 4 to the O.A. i.e. the Sr. Supdt of Post Offices praying for implementation of the judgment and order dated 28.8.98 passed by the Hon,ble Tribunal.

A copy of the said representation dated 7.9.98 is annexed herewith and marked as ANNEXURE-2.

4. That the respondents No 4 thereafter issued an order DATED 22.9.98, by which the service of the applicant as Extra Departmental Delivery Agent (EDDA) has been terminated and she has been

X

appointed as part time Safaiwala in the Kamakhya Sub Post Office, with present pay protection but in fact no such protection has been granted rather the pay of the applicant has been reduced to a lower stage.

5. That the petitioner begs to state that just after the pronouncement of the judgment has been accommodated as Safaiwala under the respondent No.4 i.e. the Contemner No.2 but her pay has been reduced to a further lower grade which is a pre-revised scale and the said scale is no longer in existence in the Department of Posts. It is pertinent to mention here that the petition was drawing the revised scale of pay but after the aforesaid judgment and order wherein it has been categorically mentioned that there should not be any monetary loss to the petitioner, her pay has been reduced to a lower stage. The aforesaid action on the part of the contemners are in direct conflict with the judgment and order dated 28.8.98 passed by the Hon'ble Tribunal.

6. That the petitioner begs to state that till date she has not been paid her D.A. w.e.f. January, 1999 and 8 days Duty Allowance w.e.f. 6.10.98 to 13.10.98. The respondents knowing fully well the contention of the judgment and order dated 28.8.98 violated the same and their actions are contemptuous in nature and for that they are liable to be punished under the Contempt of Courts Act. The judgment and order of the Hon'ble Tribunal is very clear regarding the relief granted to the applicant and the respondents now can not violate the same as the said order has attained the finality.

7. That the applicant thereafter pursuing the matter before the authority concerned by way of filing numbers of representations but same are yet to yield any result in affirmative. Presently the applicant is facing tremendous financial hardship. Having not getting a fruitful result the applicant has come under the pro-

protective hands of the Hon'ble Tribunal Praying for an appropriate direction to the respondents for proper implementation of the order of the Hon'ble Tribunal.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the said representations at the time of hearing of the case.

8. That the petitioners have filed this contempt petition bonafide and to secure the ends of justice.

In the premises aforesaid, it is most respectfully prayed that your Lordships would graciously be pleased to draw contempt of Court's proceedings against the contemners for willful and deliberate violation of the judgment and order dated 28.8.98 passed in O.A.No.40/96 and to pass necessary order for implementation of the said order and/or pass any such order/orders as may be deemed fit and proper considering the facts and circumstances of the case.

And for this, the petitioners as in duty bound shall ever pray.

DRAFT CHARGE

WHEREAS the contemners are liable to be punished under the Contempt of Court's Proceedings for willful and deliberate violation of judgment and order dated 28.8.98 passed in O.A.No.40/96 (Anima Kalita -vs- U.O.I. & Ors.) passed by this Hon'ble Tribunal.

*Advocate*  
Advocate

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AFFIDAVIT

I, Smt.Anima Kalita, aged about 37 years, wife of Chandradhar Kalita, at present working as Part time Safaiwala, in the Kamakhya Post Office , do hereby solemnly affirm and state as follows ;

1. That the statements made in this affidavit and in the accompanying petition in paragraphs 2, 4 to 8... .. are true to my knowledge and those made in paragraphs 1, and 3... .. are also true to information and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 6 th day of Feb 2000.

Identified by:

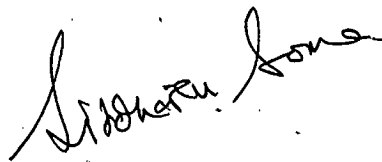


Advocate.

Anima Kalita

Deponent.

Solemnly affirm and declared by the deponent, who is identified by Shri U.K.Nair, Advocate on this the 6th day of Feb 2000.



## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 40 of 1996.

Date of Order : This the 28th day of August, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Smt Anima Kalita -  
C/O Late Chandradhar Kalita,  
P.O. Kamakhya, Guwahati  
at present working as EDDA  
under the respondent No.4

. . . Applicant

By Advocate Shri B.K.Sharma &amp; S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary  
to the Government of India,  
Ministry of Communication,  
New Delhi.
2. The Director General of Posts,  
New Delhi.
3. The Chief Post Master General,  
Assam Circle, Guwahati.
4. The Sr.Superintendent of Post Offices,  
Guwahati Division, Guwahati-1.
5. Sub Post Master,  
Kamakhya Post Office,  
Kamakhya, Guwahati-10.
6. Harapati Patowari,  
C/O Lambadar Deka,  
Fatasil Ambari, Near Kali Mandir,  
Guwahati.

. . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C  
for respondents No.1 to 5, and Shri M.Deka  
for respondent No.6.

O R D E RG.L.SANGLYINE, ADMINISTRATIVE MEMBER,

The applicant works as an Extra Departmental Delivery Agent (EDDA for short) in Kamakhya Post Office, Kamakhya, Guwahati-10. The Assistant Superintendent of Post Offices, Guwahati West Sub-Division issued an order No.A-1/Kamakhya dated 27.11.1995 terminating the work of the applicant with immediate effect. The Assistant Superintendent of Post Offices,

contd.. 2

Guwahati West Sub-Division, Guwahati also issued order under Memo No.A-1/Kamakhya dated 29.2.1996 making provisional appointment of Shri Harapati Patowary, respondent No.6, to the post of Extra Departmental Delivery Agent of Kamakhya Post Office pending finalisation of disciplinary proceeding against Shri Bipin Chandra Mahanta or regular appointment whichever is earlier. The applicant felt aggrieved with the aforesaid orders and had submitted this Original Application. In this application the applicant prays that the aforesaid orders be set aside and quashed. She also prays for directions to the respondents to grant her temporary status leading to regularisation of her service and not to appoint any outsider to the post of EDDA of Kamakhya Post Office in her place. The respondents have contested the application. The official respondents as well as the respondent No.6 have submitted their written statements.

The brief facts of the case are :-

Shri Bipin Ch. Mahanta was the regular EDDA of Kamakhya Post Office. He availed leave from 24.8.94 to 30.11.94 and nominated the applicant, Smt Anima Kalita, to work as substitute during his leave period. Mahanta however did not return to his duty after expiry of leave. The applicant continued from 1.12.94 to 8.12.94. On 9.12.94 the Assistant Superintendent of Post Offices, Guwahati West Sub Division issued the order No.A-1/Kamakhya dated 9.12.94 permitting the applicant to work as EDDA, Kamakhya till joining of Shri Bipin Mahanta who was absenting from duty without authority, pending further action as deem fit. On the strength of the order the applicant continued to work as EDDA in the Sub Post Office till the terminating order dated 27.11.1995 was issued. However, it has been stated that even after the said order dated 27.11.95 the applicant continued to work as EDDA in the Post Office

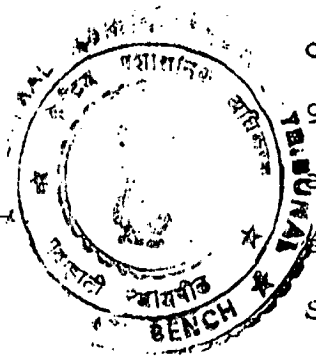
even on the date of filing of this Original Application on 12.3.96. She is now continuing as EDDA by virtue of an interim order dated 13.3.96. On 12.12.95 the Assistant Superintendent of Post Offices notified to the Employment Exchanges at Bharalumukh and Pub-Sarania for sponsoring names of candidates to fill up the vacant post of EDDA at Kamakhya Sub Post Office which had fallen vacant temporarily. Four names were sponsored and Shri Harapati Patowari, respondent No.6, was selected and appointed. Annexure-5 order dated 29.2.1996 was issued in his favour. The name of the applicant was not communicated by the respondents to the Employment Exchanges and the Employment Exchanges also did not sponsor her name.

3. On hearing the learned counsel on both sides the first question to be considered is whether the applicant is entitled to temporary status which would lead to regularisation of her service and absorption in a regular establishment. Temporary status is granted to casual labourers. The contention of the respondents is that the applicant was only a substitute of a regular EDDA and therefore she is not entitled to claim for regular absorption in the department. On perusal of the relevant rules we understand what a substitute is in this context. A regular EDDA when he is proceeding on authorised leave or absence has to provide a substitute and arrange that his work is to be carried on by the substitute. This arrangement is however, with the written approval of the leave sanctioning authority. The substitute who performs the work receives the allowance/remuneration payable to the regular EDDA for such duration. The substitute is an agent of the EDDA concerned and the original EDDA is liable for action committed by the substitute provided by him. The regular EDDA may also be on unauthorised absence but he provided the substitute without the approval of the competent



authority. The rules/instructions also provide that if the absence from duty of the regular EDDA is likely to be indefinite, regular appointment of EDDA should be made immediately by appointing authority but the person so appointed need not necessarily be the substitute. Bipin Mahanta was granted leave for the period from 24.8.1994 to 30.11.1994 and for this period he had made arrangement and provided a substitute, namely, the applicant. Thus for this period the applicant was a substitute. Mahanta did not return to duty after expiry of leave and he had not made any further arrangement for a substitute for the period after the expiry of his leave. The applicant cannot therefore be held to be a substitute of the original EDDA after the expiry of leave of Mahanta. After 9.12.1994 specially the situation had changed completely. The applicant was not a substitute and she was not appointed as an EDDA but she was simply permitted to work as EDDA Kamakhya Sub Post Office till joining of Shri Bipin Ch. Mahanta who is absent from duty without authority, pending further action as deem fit. Her service was terminated with immediate effect on 27.11.1995 vide order dated 27.11.1995. Yet the respondents had continued to obtain service from her till the date of submission of this original Application. In the above facts and circumstances we are of the view that the applicant was not a substitute after the expiry of leave of Mahanta. Thereafter she was not appointed against the post of EDDA Kamakhya Sub Post Office. Nevertheless she was permitted by the respondents to do their works in the Sub Post Office on payment. In our opinion such arrangement is of the nature of casual employment. The applicant had worked under such situation from 1.12.1994 till 12.3.1996. Thus the applicant had put in 240 days continuous service in a year. In the circumstances we direct the respondents to consider conferring

contd.. 5



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20  
5 - 0A 319/99, 170/99, 179/ zero;

219/ zero, 202/ 99, 276/ zero

4 224/ zero - 6/12/ zero - 5/16

OA 383/2000 <sup>D/12</sup> → 20/11 - for Adm <sup>Govt</sup>

F/12

① 264/98 - 15/11

② 181/200 - 6/3/2001 - F/14

③ 98/2000 → 11/12

④ OA 127/2000 → 6/3/2001 - F/14

⑤ OA 90/2000 → 6/3/2001 - F/14

⑥ ~~282/2000~~ → 11/12 - F/10

⑦ MP 24/2000 - Allowed

OA 156/2000 <sup>restored</sup> → 13/12 - F/10

⑧ OA 37/2000 (T) - 29/11 - F/10

⑨ OA 83/2000 - 11/12 - F/10

S/13

① OA 318/2000 → 13/12 - F/10

② OA 382/2000 → 13/12

F/12  
① OA 308/2000 ~~277/2000~~ → 11/12

③ OA 906/2000 ~~9~~ OA 310/2000 → 11/12 - out

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temporary status to the applicant as may be admissible under the relevant rules or scheme. The applicant is at liberty to agitate further before appropriate authority if she is aggrieved by the order of the respondents. The next question is whether the termination order dated 27.11.1995 is sustainable. As already mentioned hereinabove the applicant was no longer a substitute after 30.11.1994 and by the order dated 9.12.1994 she was not appointed as EDDA or was allowed to work as a substitute. No doubt she was permitted to work as EDDA till joining by Shri Bipin Ch. Mahanta. By this order no vested right of the applicant to the post of EDDA was created. Further, the aforesaid arrangement was without observing formalities and it had not subjected the applicant to the ED Agents (Conduct and Services) Rules 1964. Moreover, Mahanta had remained absent for a long time. In such circumstances it was administratively necessary for the respondents to bring an end the arrangement and, in our view, the respondents were within their rights to terminate the arrangement and that they had done so bonafide. We do not find any reason to justify interference with the order of termination. The termination however is to be considered only as an artificial



break which will not forfeit the past services of the applicant from being considered for the purpose of granting her temporary status. As stated earlier the termination has immediate effect but even after the order was issued the applicant continued to work. In the above mentioned facts and circumstances we direct the respondents to retain the applicant as a casual employee in any other capacity under the control of respondent No.4 without monetary loss and to consider granting her temporary status in due course.

4. In view of the findings and directions above we consider that it is not necessary to go into the question of legality or otherwise of the appointment of respondent

*Retain as a casual Employee, in all cases  
without monetary loss.  
Consider grant her temp status*

No.6 to the post of EDDA Kamakhya Sub Post Office.

5. The application is disposed of in the lines as indicated above.

No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



TRUE COPY  
प्रतिलिपि

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Section Officer (A) 3/9/20  
मानमग अधिकारी (अधिक शाख)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक अधिकरण  
Guwahati Bench, Guwahati-7  
গুৱাহাটী বেঞ্চ, গুৱাহাটী-৬

3/9/20

Regd/By hand

To  
The Senior supdt. of Post Offices,  
Guwahati Dn. Guwahati- 781001.

Dated, Kamakhya the 7.9.98.

Ref : O.A. No. 40/96.

Smt. Anima Kalita  
Vs  
Union of India and others.

Sub : Order dt. 28.8.98 passed in the above  
referred original application.

Respected Sir,

With due respect and submission your humble applicat~~ia~~  
begs to state that your humble applicant having been aggrie-  
ved by the action on the part of the department in not regu-  
larising her services, was constrained to approach the Hon<sup>ble</sup>  
Central Administrative Tribunal, Guwahati by way of the  
above referred original application praying for redressal of  
her grievances.

The Hon'ble Tribunal upon having <sup>reviewed</sup> both the sides, was  
kind enough to <sup>pass</sup> the order dt. 28.8.98 which is self  
explanatory.

That sir, your humble applicant now prays before your  
honour to initiate steps for implementation of the aforesaid  
order and for regularisation of her services with all the  
consequential benefits at the earliest.

That sir, for ready reference, a copy of the order  
dated 28.8.98 is enclosed herewith. Your action at the ear-  
liest in compliance to the Hon'ble CAT's direction, will be  
termed as a blessings to this humble widow with two minor  
children for her future survival in the society.

Yours faithfully,

D.A. : Copy of order  
stated above.

(Smt. ANIMA KALITA)  
E.D.D.A. Kamakhya P.O.  
Guwahati-781010.

In the Central Administrative Tribunal

Guwahati Bench ::: Guwahati.

CE No.4/2000  
In O.A. No. 40/96

Smti. Anima Kalita

..... Petitioner.

- Vs -

1. Shri Jasanga

2. Smti. B. Radhika Chakraborty.

..... Contemners.

In the matter of :

Affidavit-in-Reply filed by the  
Respondent No.

I, *Shri Jasanga*

the Contemner No. 1 in this case do hereby  
solemnly affirm and state as under :-

1. Before traversing the various paragraphs of  
the contempt petition, I say herein below the brief  
history of the case leading to the filing of this contempt  
petition.

There is a post of EDDA (Extra Departmental -  
Delivery Agent ) at Kamakhya Sub Post Office. The regular  
incumbent one Shri Bipin Ch. Mahanta availed leave for a  
period of 90 days from 24.08.94 to 30.11.94. The appli-  
cant Smti. Anima Kalita was nominated as the substitute

*filed by*  
*Debarina*  
14/11/20  
(B. C. Pathak)  
Addl. Central Gov. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

by Said Shri Mahanta to work as EDDA at his own responsibility in terms of instructions 4 of Director General's instruction inserted below Rules 1964.

On expiry of leave said Shri Mahanta did not resume his duty. The appointing authority ( Asstt. Superintendent of Post Offices, West Guwahati Sub Division ) issued an order on 09.12.94 to allow to officiate by Smti. Anima Kalita, as EDDA till the permanent incumbent resume duty or any action is taken thereafter.

The arrangement made on 09.12.94 was ordered to be terminated by the appointing authority on 27.11.95. Against this, Anima Kalita has gone to Hon'ble C.A.T. and Hon'ble C.A.T. passed an order dated 28.08.98 that she should be given a temporary status without monetary loss. Accordingly the Hon'ble C.A.T.'s order was implemented immediately on 22.09.98 and she was absorbed in part time safaiwala post with pay of EDDA.

Later the petitioner has requested the department to pay her revised allowances of ED employee ( pay of ED employees was revised in the year 1999 i.e. much later than Hon'ble CAT's final order and also implementation of final order ). But department rejected her application as she was not entitled. She also claimed for allowance for 8 days from 6.10.98 to 13.10.98 but the same was denied to her as she was not holding any post in the department. Subsequently she has filed the contempt petition.

A copy of the order dt. 28.8.99 passed in O.A. 40/96 is annexed as Annexure - R<sub>1</sub> .

2. That with regard to para no. 1, I say that the petitioner has been granted part timer safaiwala in temporary status with full benefit of EDDA that is without any monetary loss as per Hon'ble Tribunals direction passed in O.A. No. 40/96 dated 28.08.98. I deny that there was any direction to regularise the service of the applicant/petitioner.

3. That with regard to statements in para no.2, the official respondent no.4 has absorbed the petitioner as part time safaiwala in temporary status with the monetary benefit of EDDA as per the Hon'ble Tribunal's direction that there should not be any monetary loss though as a part timer the applicant is not entitled. Hon'ble Tribunal's direction has been immediately complied with even though no part time safaiwala is entitled for monetary benefit of EDDA as per departmental rules. Thus the Tribunal's direction was not violated.

4. That with regard to statements in para no.3 I say that the representation of the petitioner has been disposed of absorbing her in part time safaiwala post vide Asstt. Supdt. of Post Offices, West Guwahati Sub-Division letter no. A1/Kamakhya dated 22.09.98 without monetary loss. As a result even though safaiwala is not entitled for EDDA allowance she as safaiwala was given EDDA allowance as per the order dated 28.8.98.

5. That with regard to statements in para no.4, I say that the petitioner's pay has been protected in part timer post but yet the petitioner has been granted the pay of EDDA. There was no reduction in pay to a lower stage. The allegation of complainant is false, and untenable in law.

6. That with regard to the statements in para no.5, I say that the petitioner has been given the pay protection by giving the pay of EDDA in compliance of this Hon'ble Tribunal's order dated 28.8.99. Though the petitioner being a safaiwala is not entitled for pay of EDDA, but the same has been as a compliance of the order dated 28.8.99. There is nothing to show that the contemner no. has willfully violated the order dated 28.8.99 passed in O.A. No. 40/96.

7. That with regard to para no. 6 I say that as the pay of the petitioner has been protected by an order, the ~~drawal~~ drawal of DA to the petitioner does not arise now. Regarding her 8 days duty allowance w.e.f. 6.10.98 to 13.10.98 I say that the petitioner has been relieved from EDDA post on 6.10.98 (forenoon) but had joined in new part time post only on 14.10.98 (F/N) vide Sub-Postmaster, Kamakhya letter no. B2/Staff/KMK/99 dated 05.04.99. It is the petitioner's fault that she has joined late i.e. on 14.10.98, when she was supposed to join on 6.10.98 afternoon itself. As she was not holding any post for the said period she is, therefore, not entitled for any allowance for that period.

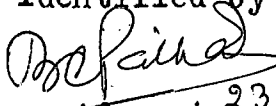
8. Petitioner's claims are not justified at all and therefore the representations are disposed off accordingly. Petitioner state that she is facing financial hardship is absolutely false as she is being duly paid her allowances and she has a remunerated job of safaiwala. The petitioner stand therefore is false and malicious.

9. That with regard to the statements in para no.8, I say that the contempt petition has been filed malafide ~~is~~ without any just cause of ~~an~~ action. The order dated 28.8.99 has been fully complied with and the alleged contemner has not done any thing which may be termed as violation of the order dated 28.8.99 passed in O.A. 40/96 that two wilfully and deliberately.

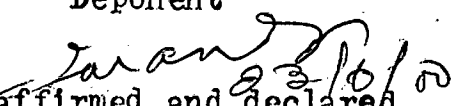

10. That I say that there is no wilful or deliberate violation of the Hon'ble Tribunal's order dated 28.8.99, even if, this Hon'ble Tribunal hold this contemner to be guilty of any contempt under the contempt of courts Act, I pray for unqualified apoloty for any such mistake if any committed by me without any intention.

11. That the statements made in this affidavit are true to my knowledge and belief and I sign this affidavit on this <sup>23<sup>rd</sup></sup> day of June, 2000 at Guwahati.

Identified by me

  
Advocate. 23/6/2000

Deponent

  
Solemnly affirmed and declared  
before me by the deponent who is  
identified by Shri B.C. Pathak,  
Advocate, on this <sup>23<sup>rd</sup></sup> day of June  
2000 at Guwahati.  Advocate

6 Ann - R<sub>1</sub> 29

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 40 of 1996.

Date of Order : This the 28th day of August, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Smt Anima Kalita  
C/O Late Chandradhar Kalita,  
P.O. Kamakhya, Guwahati  
at present working as EDDA  
under the respondent No.4

. . . Applicant

By Advocate Shri B.K.Sharma & S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary  
to the Government of India,  
Ministry of Communication,  
New Delhi.
2. The Director General of Posts,  
New Delhi.
3. The Chief Post Master General,  
Assam Circle, Guwahati.
4. The Sr.Superintendent of post Offices,  
Guwahati Division, Guwahati-1.
5. Sub Post Master,  
Kamakhya Post Office,  
Kamakhya, Guwahati-10.
6. Harapati Patowari,  
C/O Lambadar Deka,  
Fatasil Ambari, Near Kali Mandir,  
Guwahati.

. . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C  
for respondents No.1 to 5, and Shri M.Deka  
for respondent No.6.

ORDER

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

The applicant works as an Extra Departmental Delivery Agent (EDDA for short) in Kamakhya Post Office, Kamakhya, Guwahati-10. The Assistant Superintendent of Post Offices, Guwahati West Sub-Division issued an order No.A-1/Kamakhya dated 27.11.1995 terminating the work of the applicant with immediate effect. The Assistant Superintendent of Post Offices,

contd.. 2

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Guwahati West Sub-Division, Guwahati also issued order under Memo No.A-1/Kamakhya dated 29.2.1996 making provisional appointment of Shri Harapati Patowary, respondent No.6, to the post of Extra Departmental Delivery Agent of Kamakhya Post Office pending finalisation of disciplinary proceeding against Shri Bipin Chandra Mahanta or regular appointment whichever is earlier. The applicant felt aggrieved with the aforesaid orders and had submitted this Original Application. In this application the applicant prays that the aforesaid orders be set aside and quashed. She also prays for directions to the respondents to grant her temporary status leading to regularisation of her service and not to appoint any outsider to the post of EDDA of Kamakhya Post Office in her place. The respondents have contested the application. The official respondents as well as the respondent No.6 have submitted their written statements.

2. The brief facts of the case are :-

Shri Bipin Ch. Mahanta was the regular EDDA of Kamakhya Post Office. He availed leave from 24.8.94 to 30.11.94 and nominated the applicant, Smt Anima Kalita, to work as substitute during his leave period. Mahanta however did not return to his duty after expiry of leave. The applicant continued from 1.12.94 to 8.12.94. On 9.12.94 the Assistant Superintendent of Post Offices, Guwahati West Sub Division issued the order No.A-1/Kamakhya dated 9.12.94 permitting the applicant to work as EDDA, Kamakhya till joining of Shri Bipin Mahanta who was absenting from duty without authority, pending further action as deem fit. On the strength of the order the applicant continued to work as EDDA in the Sub Post Office till the terminating order dated 27.11.1995 was issued. However, it has been stated that even after the said order dated 27.11.95 the applicant continued to work as EDDA in the post office

even on the date of filing of this Original Application on 12.3.96. She is now continuing as EDDA by virtue of an interim order dated 13.3.96. On 12.12.95 the Assistant Superintendent of Post Offices notified to the Employment Exchanges at Bharalumukh and Pub-Sarania for sponsoring names of candidates to fill up the vacant post of EDDA at Kamakhya Sub Post Office which had fallen vacant temporarily. Four names were sponsored and Shri Harapati Patowari, respondent No.6, was selected and appointed. Annexure-5 order dated 29.2.1996 was issued in his favour. The name of the applicant was not communicated by the respondents to the Employment Exchanges and the Employment Exchanges also did not sponsor her name.

3. On hearing the learned counsel on both sides the first question to be considered is whether the applicant is entitled to temporary status which would lead to regularisation of her service and absorption in a regular establishment. Temporary status is granted to casual labourers. The contention of the respondents is that the applicant was only a substitute of a regular EDDA and therefore she is not entitled to claim for regular absorption in the department. On perusal of the relevant rules we understand what a substitute is in this context. A regular EDDA when he is proceeding on authorised leave or absence has to provide a substitute and arrange that his work is to be carried on by the substitute. This arrangement is however, with the written approval of the leave sanctioning authority. The substitute who performs the work receives the allowance/remuneration payable to the regular EDDA for such duration. The substitute is an agent of the EDDA concerned and the original EDDA is liable for action committed by the substitute provided by him. The regular EDDA may also be on unauthorised absence but he provided the substitute without the approval of the competent

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authority. The rules/instructions also provide that if the absence from duty of the regular EDDA is likely to be indefinite, regular appointment of EDDA should be made immediately by appointing authority but the person so appointed need not necessarily be the substitute. Bipin Mahanta was granted leave for the period from 24.8.1994 to 30.11.1994 and for this period he had made arrangement and provided a substitute, namely, the applicant. Thus for this period the applicant was a substitute. Mahanta did not return to duty after expiry of leave and he had not made any further arrangement for a substitute for the period after the expiry of his leave. The applicant cannot therefore be held to be a substitute of the original EDDA after the expiry of leave of Mahanta. After 9.12.1994 specially the situation had changed completely. The applicant was not a substitute and she was not appointed as an EDDA but she was simply permitted to work as EDDA Kamakhya Sub Post Office till joining of Shri Bipin Ch. Mahanta who is absent from duty without authority, pending further action as deem fit. Her service was terminated with immediate effect on 27.11.1995 vide order dated 27.11.1995. Yet the respondents had continued to obtain service from her till the date of submission of this original Application. In the above facts and circumstances we are of the view that the applicant was not a substitute after the expiry of leave of Mahanta. Thereafter she was not appointed against the post of EDDA Kamakhya Sub Post Office. Nevertheless she was permitted by the respondents to do their works in the Sub Post Office on payment. In our opinion such arrangement is of the nature of casual employment. The applicant had worked under such situation from 1.12.1994 till 12.3.1996. Thus the applicant had put in 240 days continuous service in a year. In the circumstances we direct the respondents to consider conferring

temporary status to the applicant as may be admissible under the relevant rules or scheme. The applicant is at liberty to agitate further before appropriate authority if she is aggrieved by the order of the respondents. The next question is whether the termination order dated 27.11.1995 is sustainable. As already mentioned hereinabove the applicant was no longer a substitute after 30.11.1994 and by the order dated 9.12.1994 she was not appointed as EDDA or was allowed to work as a substitute. No doubt she was permitted to work as EDDA till joining by Shri Bipin Ch. Mahanta. By this order no vested right of the applicant to the post of EDDA was created. Further, the aforesaid arrangement was without observing formalities and it had not subjected the applicant to the ED Agents (Conduct and Services) Rules 1964. Moreover, Mahanta had remained absent for a long time. In such circumstances it was administratively necessary for the respondents to bring to an end the arrangement and, in our view, the respondents were within their rights to terminate the arrangement and that they had done so bonafide. We do not find any reason to justify interference with the order of termination. The termination however is to be considered only as an artificial break which will not forfeit the past services of the applicant from being considered for the purpose of granting her temporary status. As stated earlier the termination has immediate effect but even after the order was issued the applicant continued to work. In the above mentioned facts and circumstances we direct the respondents to retain the applicant as a casual employee in any other capacity under the control of respondent No.4 without monetary loss and to consider granting her temporary status in due course.

4. In view of the findings and directions above we consider that it is not necessary to go into the question of legality or otherwise of the appointment of respondent

No.6 to the post of EDDA Kamakhya Sub Post Office.

5. The application is disposed of in the lines as indicated above.

No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

28  
Filed by  
D. Pathak  
(B. C. Pathak) 14/11/2000  
Addl. Central Gov. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench: Guwahati

In the Central Administrative Tribunal  
Guwahati Bench ::: Guwahati.

CF No.4/2000  
In O.A. No. 40/96

Smti. Anima Kalita

..... Petitioner.  
- Vs -

1. Shri Jasanga
2. Smti. B. Radhika Chakraborty.

..... Contemners.

In the matter of :

Affidavit-in-Reply filed by the  
Respondent No.

I, *B Radhika Chakraborty*  
the Contemner No. 2, in this case do hereby  
solemnly affirm and state as under :-

1. Before traversing the various paragraphs of  
the contempt petition, I say herein below the brief  
history of the case leading to the filing of this contempt  
petition.

There is a post of EDDA (Extra Departmental -  
Delivery Agent ) at Kamakhya Sub Post Office. The regular  
incumbent one Shri Bipin Ch. Mahanta availed leave for a  
period of 90 days from 24.08.94 to 30.11.94. The appli-  
cant Smti. Anima Kalita was nominated as the substitute

by Said Shri Mahanta to work as EDDA at his own responsibility in terms of instructions 4 of Director General's instruction inserted below Rules 1964.

On expiry of leave said Shri Mahanta did not resume his duty. The appointing authority ( Asstt. Superintendent of Post Offices, West Guwahati Sub Division ) issued an order on 09.12.94 to allow to officiate by Smti. Anima Kalita, as EDDA till the permanent incumbent resume duty or any action is taken thereafter.

The arrangement made on 09.12.94 was ordered to be terminated by the appointing authority on 27.11.95. Against this, Anima Kalita has gone to Hon'ble C.A.T. and Hon'ble C.A.T. passed an order dated 28.08.98 that she should be given a temporary status without monetary loss. Accordingly the Hon'ble C.A.T.'s order was implemented immediately on 22.09.98 and she was absorbed in part time safaiwala post with pay of EDDA.

Later the petitioner has requested the department to pay her revised allowances of ED employee ( pay of ED employees was revised in the year 1999 i.e. much later than Hon'ble CAT's final order and also implementation of final order ). But department rejected her application as she was not entitled. She also claimed for allowance for 8 days from 6.10.98 to 13.10.98 but the same was denied to her as she was not holding any post in the department. Subsequently she has filed the contempt petition.

A copy of the order dt. 28.8.99 passed in O.A. 40/96

is annexed as Annexure - R<sub>1</sub> .

2. That with regard to para no. 1, I say that the petitioner has been granted part timer safaiwala in temporary status with full benefit of EDDA that is without any monetary loss as per Hon'ble Tribunals direction passed in O.A. No. 40/96 dated 28.08.98. I deny that there was any direction to regularise the service of the applicant/petitioner.

3. That with regard to statements in para no.2, the official respondent no.4 has absorbed the petitioner as part time safaiwala in temporary status with the monetary benefit of EDDA as per the Hon'ble Tribunal's direction that there should not be any monetary loss though as a part timer the applicant is not entitled. Hon'ble Tribunal's direction has been immediately complied with even though no part time safaiwala is entitled for monetary benefit of EDDA as per departmental rules. Thus the Tribunal's direction was not violated.

4. That with regard to statements in para no.3 I say that the representation of the petitioner has been disposed of absorbing her in part time safaiwala post vide ~~the~~ Asstt. Supdt. of Post Offices, West Guwahati Sub-Division letter no. A1/Kamakhya dated 22.09.98 without monetary loss. As a result even though safaiwala is not entitled for EDDA allowance she as safaiwala was given EDDA allowance as per the order dated 28.8.98.

5. That with regard to statements in para no.4, I say that the petitioner's pay has been protected in part timer post but yet the petitioner has been granted the pay of EDDA. There was no reduction in pay to a lower stage. The allegation of complainant is false, and untenable in law.

6. That with regard to the statements in para no.5, I say that the petitioner has been given the pay protection by giving the pay of EDDA in compliance of this Hon'ble Tribunal's order dated 28.8.99. Though the petitioner being a safaiwala is not entitled for pay of EDDA, but the same has been as a compliance of the order dated 28.8.99. There is nothing to show that the contemner no. has willfully violated the order dated 28.8.99 passed in O.A. No. 40/96.

7. That with regard to para no. 6 I say that as the pay of the petitioner has been protected by an order, the ~~drawal~~ drawal of DA to the petitioner does not arise now. Regarding her 8 days duty allowance w.e.f. 6.10.98 to 13.10.98 I say that the petitioner has been relieved from EDDA post on 6.10.98 (forenoon) but had joined in new part time post only on 14.10.98 (F/N) vide Sub-Postmaster, Kamakhya letter no. B2/Staff/MMK/99 dated 05.04.99. It is the petitioner's fault that she has joined late i.e. on 14.10.98, when she was supposed to join on 6.10.98 afternoon itself. As she was not holding any post for the said period she is, there-


8. Petitioner's claims are not justified at all and therefore the representations are disposed off accordingly. Petitioner state that she is facing financial hardship is absolutely false as she is being duly paid her allowances and she has a remunerated job of safaiwala. The petitioner stand therefore is false and malicious.

9. That with regard to the statements in para no.8, I say that the contempt petition has been filed malafide ~~is~~ without any just cause of ~~ex~~ action. The order dated 28.8.99 has been fully complied with and the alleged contemner has not done any thing which may be termed as violation of the order dated 28.8.99 passed in O.A. 40/96 that two wilfully and deliberately.

10. That I say that there is no wilful or deliberate violation of the Hon'ble Tribunal's order dated 28.8.99, even if, this Hon'ble Tribunal hold this contemner to be guilty of any contempt under the contempt of courts Act, I pray for unqualified apology for any such mistake if any committed by me without any intention.

11. That the statements made in this affidavit are true to my knowledge and belief and I sign this affidavit on this <sup>3rd</sup> th day of June, 2000 at Guwahati.

Identified by me

  
Advocate. 3/6/2000

B. Radhika Chakravarty  
Deponent

Solemnly affirmed and declared before me by the deponent who is identified by Shri B.C. Pathak, Advocate, on this    th day of June

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Annexure R  
32/1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 40 of 1996.

Date of Order : This the 28th day of August, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Smt Anima Kalita  
C/O Late Chandradhar Kalita,  
P.O. Kamakhya, Guwahati  
at present working as EDDA  
under the respondent No.4

. . . Applicant

By Advocate Shri B.K.Sharma & S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary  
to the Government of India,  
Ministry of Communication,  
New Delhi.
2. The Director General of Posts,  
New Delhi.
3. The Chief Post Master General,  
Assam Circle, Guwahati.
4. The Sr.Superintendent of Post Offices,  
Guwahati Division, Guwahati-1.
5. Sub Post Master,  
Kamakhya Post Office,  
Kamakhya, Guwahati-10.
6. Harapati Patowari,  
C/O Lambadar Deka,  
Fatasil Ambari, Near Kali Mandir,  
Guwahati.

. . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C  
for respondents No.1 to 5, and Shri M.Deka  
for respondent No.6.

ORDER

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

The applicant works as an Extra Departmental Delivery Agent (EDDA for short) in Kamakhya Post Office, Kamakhya, Guwahati-10. The Assistant Superintendent of Post Offices, Guwahati West Sub-Division issued an order No.A-1/Kamakhya dated 27.11.1995 terminating the work of the applicant with immediate effect. The Assistant Superintendent of Post Offices.

Guwahati West Sub-Division, Guwahati also issued order under Memo No.A-1/Kamakhya dated 29.2.1996 making provisional appointment of Shri Harapati Patowary, respondent No.6, to the post of Extra Departmental Delivery Agent of Kamakhya Post Office pending finalisation of disciplinary proceeding against Shri Bipin Chandra Mahanta or regular appointment whichever is earlier. The applicant felt aggrieved with the aforesaid orders and had submitted this Original Application. In this application the applicant prays that the aforesaid orders be set aside and quashed. She also prays for directions to the respondents to grant her temporary status leading to regularisation of her service and not to appoint any outsider to the post of EDDA of Kamakhya Post Office in her place. The respondents have contested the application. The official respondents as well as the respondent No.6 have submitted their written statements.

2. The brief facts of the case are :-

Shri Bipin Ch. Mahanta was the regular EDDA of Kamakhya Post Office. He availed leave from 24.8.94 to 30.11.94 and nominated the applicant, Smt Anima Kalita, to work as substitute during his leave period. Mahanta however did not return to his duty after expiry of leave. The applicant continued from 1.12.94 to 8.12.94. On 9.12.94 the Assistant Superintendent of Post Offices, Guwahati West Sub Division issued the order No.A-1/Kamakhya dated 9.12.94 permitting the applicant to work as EDDA, Kamakhya till joining of Shri Bipin Mahanta who was absenting from duty without authority, pending further action as deem fit. On the strength of the order the applicant continued to work as EDDA in the Sub Post Office till the terminating order dated 27.11.1995 was issued. However, it has been stated that even after the said order dated 27.11.95 the applicant continued to work as EDDA in the post office

even on the date of filing of this Original Application on 12.3.96. She is now continuing as EDDA by virtue of an interim order dated 13.3.96. On 12.12.95 the Assistant Superintendent of Post Offices notified to the Employment Exchanges at Bharalumukh and Pub-Sarania for sponsoring names of candidates to fill up the vacant post of EDDA at Kamakhya Sub Post Office which had fallen vacant temporarily. Four names were sponsored and Shri Harapati Patowari, respondent No.6, was selected and appointed. Annexure-5 order dated 29.2.1996 was issued in his favour. The name of the applicant was not communicated by the respondents to the Employment Exchanges and the Employment Exchanges also did not sponsor her name.

3. On hearing the learned counsel on both sides the first question to be considered is whether the applicant is entitled to temporary status which would lead to regularisation of her service and absorption in a regular establishment. Temporary status is granted to casual labourers. The contention of the respondents is that the applicant was only a substitute of a regular EDDA and therefore she is not entitled to claim for regular absorption in the department. On perusal of the relevant rules we understand what a substitute is in this context. A regular EDDA when he is proceeding on authorised leave or absence has to provide a substitute and arrange that his work is to be carried on by the substitute. This arrangement is however, with the written approval of the leave sanctioning authority. The substitute who performs the work receives the allowance/remuneration payable to the regular EDDA for such duration. The substitute is an agent of the EDDA concerned and the original EDDA is liable for action committed by the substitute provided by him. The regular EDDA may also be on unauthorised absence but he provided the substitute without the approval of the competent

35

authority. The rules/instructions also provide that if the absence from duty of the regular EDDA is likely to be indefinite, regular appointment of EDDA should be made immediately by appointing authority but the person so appointed need not necessarily be the substitute. Bipin Mahanta was granted leave for the period from 24.8.1994 to 30.11.1994 and for this period he had made arrangement and provided a substitute, namely, the applicant. Thus for this period the applicant was a substitute. Mahanta did not return to duty after expiry of leave and he had not made any further arrangement for a substitute for the period after the expiry of his leave. The applicant cannot therefore be held to be a substitute of the original EDDA after the expiry of leave of Mahanta. After 9.12.1994 specially the situation had changed completely. The applicant was not a substitute and she was not appointed as an EDDA but she was simply permitted to work as EDDA Kamakhya Sub Post Office till joining of Shri Bipin Ch. Mahanta who is absent from duty without authority, pending further action as deem fit. Her service was terminated with immediate effect on 27.11.1995 vide order dated 27.11.1995. Yet the respondents had continued to obtain service from her till the date of submission of this original Application. In the above facts and circumstances we are of the view that the applicant was not a substitute after the expiry of leave of Mahanta. Thereafter she was not appointed against the post of EDDA Kamakhya Sub Post Office. Nevertheless she was permitted by the respondents to do their works in the Sub Post Office on payment. In our opinion such arrangement is of the nature of casual employment. The applicant had worked under such situation from 1.12.1994 till 12.3.1996. Thus the applicant had put in 240 days continuous service in a year. In the circumstances we direct the respondents to consider conferring

temporary status to the applicant as may be admissible under the relevant rules or scheme. The applicant is at liberty to agitate further before appropriate authority if she is aggrieved by the order of the respondents. The next question is whether the termination order dated 27.11.1995 is sustainable. As already mentioned hereinabove the applicant was no longer a substitute after 30.11.1994 and by the order dated 9.12.1994 she was not appointed as EDDA or was allowed to work as a substitute. No doubt she was permitted to work as EDDA till joining by Shri Bipin Ch. Mahanta. By this order no vested right of the applicant to the post of EDDA was created. Further, the aforesaid arrangement was without observing formalities and it had not subjected the applicant to the ED Agents (Conduct and Services) Rules 1964. Moreover, Mahanta had remained absent for a long time. In such circumstances it was administratively necessary for the respondents to bring to an end the arrangement and, in our view, the respondents were within their rights to terminate the arrangement and that they had done so bonafide. We do not find any reason to justify interference with the order of termination. The termination however is to be considered only as an artificial break which will not forfeit the past services of the applicant from being considered for the purpose of granting her temporary status. As stated earlier the termination has immediate effect but even after the order was issued the applicant continued to work. In the above mentioned facts and circumstances we direct the respondents to retain the applicant as a casual employee in any other capacity under the control of respondent No.4 without monetary loss and to consider granting her temporary status in due course.

4. In view of the findings and directions above we consider that it is not necessary to go into the question of legality or otherwise of the appointment of respondent

No.6 to the post of EDDA Kamakhya Sub Post Office.

5. The application is disposed of in the lines as indicated above.

No order as to costs.

Sd/- VICE CHAIRMAN  
Sd/- MEMBER (ADMN)